

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

IN RE: '318 PATENT INFRINGEMENT LITIGATION )  
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)  
) C.A. No. 05-356 (KAJ)  
) (consolidated)  
)  
)

**UNOPPOSED MOTION TO AMEND THE SCHEDULING ORDER**

Defendants Barr Laboratories, Inc. and Barr Pharmaceuticals, Inc.<sup>1</sup> (collectively "Defendants"), hereby jointly move to amend the scheduling order in this matter for the reasons stated below:

On December 20, 2005, the Court held a telephonic hearing in order to amend the scheduling order, and entered that amended scheduling order on January 12, 2006. That order provides that the cutoff date for amending pleadings is February 10, 2006. Defendants are contemplating amending the pleadings to include a defense, *inter alia*, of inequitable conduct. However, the only way Defendants can determine such defenses exist is to depose the inventor and her patent prosecution counsel.

Therefore, on December 30, 2005, shortly after the December 20th hearing, Defendants issued and attempted to serve subpoenas to take depositions of the inventor of the '318 patent, Bonnie Davis, patent prosecution counsel John Richards, as well as Mr. Richards' law firm, Ladas & Parry. The depositions were scheduled to occur in mid-January of 2006. However, due to scheduling conflicts with Dr. Davis, Mr. Richards, and Ladas & Parry, the

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<sup>1</sup> Although Barr is the movant for this motion, Defendants Alphapharm Pty Ltd., Purepac Pharmaceutical Co. and Alphaarma, Inc., Teva Pharmaceuticals USA and Teva Pharmaceuticals Industries Ltd., Dr. Reddy's Laboratories, Inc. and Dr. Reddy's Laboratories, Ltd., Mylan Pharmaceuticals, Inc. and Mylan Laboratories, Inc., Par Pharmaceutical, Inc. and Par Pharmaceutical Companies, Inc. are in agreement with this motion as well.


depositions had to be re-scheduled until Feb. 6 (Mr. Richards and Ladas & Parry), and Feb. 8-9 (Dr. Davis). Therefore, Defendants would not conclude with the depositions until one day before the current deadline for amending the pleadings.

In light of the deponents' scheduling conflicts, more time is needed to ensure the Defendants may prepare adequately any necessary amendments to the pleadings. Indeed, Plaintiffs Janssen Pharmaceutica N.V., and Janssen, L.P. and Synaptech, Inc. have stated they do not oppose this motion to amend the scheduling order. Accordingly, Defendants propose that the Scheduling Order be amended to extend the date for amending the pleadings from February 10, 2006 to February 23, 2006, as set forth in the attached Proposed Order.

WHEREFORE, Defendants respectfully request that the Scheduling Order be amended to extend the date for amending the pleadings from February 10, 2006 to February 23, 2006.

Respectfully submitted, this the 8th day of February, 2006.

BARR LABORATORIES, INC. and BARR  
PHARMACEUTICALS, INC.

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